

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-0844V

Filed: July 28, 2017

UNPUBLISHED

SHARON SMITH, as Administrator of  
the ESTATE OF PAUL SMITH,  
deceased,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Guillain-  
Barre Syndrome (GBS)

*John Robert Howie, Howie Law, PC, Dallas, TX, for petitioner.*

*Christine Mary Becer, U.S. Department of Justice, Washington, DC, for respondent.*

### **DECISION AWARDING DAMAGES<sup>1</sup>**

**Dorsey**, Chief Special Master:

On July 18, 2016, Paul Smith filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”).<sup>3</sup> Petitioner alleges that Paul Smith suffered Guillain-Barré syndrome (“GBS”) as a result of an influenza (“flu”) vaccine administered on August 19, 2015. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

<sup>3</sup> Paul Smith died after the petition was filed, and Sharon Smith was substituted as the petitioner. Sharon Smith is hereafter referred to as petitioner, and has filed documentation establishing that she is the legal representative of Mr. Smith's estate.

On July 28, 2017, a ruling on entitlement was issued, finding petitioner entitled to compensation. On July 28, 2017, respondent filed his report pursuant to Vaccine Rule 4(c) which included a proffer on award of compensation indicating petitioner should be awarded \$79,123.74. Respondent's Report at 4. In the Rule 4 report, respondent represents that petitioner agrees with the proffered award. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in Respondent's Report.

Pursuant to the terms set forth in Respondent's Report, **the undersigned awards petitioner a lump sum payment of \$79,123.74, in the form of a check payable to petitioner.** This amount represents compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>4</sup>

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master

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<sup>4</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.